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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,543	09/12/2003	David C. Fischer		6417
7590 Marvin N. Gordon 277 West End Avenue New York, NY 10023	03/23/2007		EXAMINER COURSON, TANIA C	
			ART UNIT 2859	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE 3 MONTHS		MAIL DATE 03/23/2007		DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)
	10/660,543	FISCHER, DAVID C.
	Examiner	Art Unit
	Tania C. Courson	2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 13 November 2006.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-3,5-11 and 14-17 is/are pending in the application.

4a) Of the above claim(s) 6,7,14 and 15 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-3,5,8-11,16 and 17 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 12 September 2003 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application

6) Other: _____.

Reopening of Prosecution After Appeal

1. In view of the appeal brief filed on November 13, 2006, PROSECUTION IS HEREBY REOPENED. New grounds of rejection are set forth below.

2. To avoid abandonment of the application, appellant must exercise one of the following two options:

- a. file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- b. request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131, or 1.132) or other evidence are permitted. See 37 CFR 1.193 (b)(2).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 5, 8-11 and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Moore (US 5,154,003).

Moore disclose in Figures 5B-5D, an measuring apparatus and associated method comprising:

With respect to claims 1-3, 5, 8-11 and 16:

- a) a member (55-57) movable along said arcuate path corresponding to a position along said path (Fig. 5D) corresponding to the relative position of the object (Fig. 5D), a plurality of spaced insulated contacts (59-61) insulated from one another and positioned along said path (Fig. 5D), data-storing means operatively connected to said plurality of contacts (column 9, lines 45-50), said data-storing means including a corresponding plurality of memory locations (column 9, lines 45-50), each of which stores a preset, different distance-measurement data (column 9, lines 43-53) and each of which is respectively operatively connected to one of said plurality of contacts (column 9, lines 43-53), each of said distance-measurement data stored respectively in said plurality of memory locations being uniquely respectively associated with one of said plurality of contacts along said path to which said memory location is operatively respectively connected (column 9, lines 43-53), and output means operatively connected to said data-storing means (63), said movable member being effective as it moves along said path to engage one of said contacts thereby to cause the distance-measurement data stored in the one of said memory locations then operatively connected to said one of said contacts to be applied to said output means (Fig. 5B);

- b) in which said output means is a display device (63);
- c) in which an output means is a CPU (Fig. 5B);
- d) in which said movable member is connected at one of its ends to a voltage source (Fig. 5B) and its other free end is movable along said arcuate path to make electrical contact with one of said contacts (Fig. 5B)
- e) in which data-storing means is a ROM (Fig. 5C);
- f) further comprising a voltage source (Fig. 5B), said member being effective when in electrical engagement with one of said contacts to place an associated one of said memory locations in a circuit arrangement with said voltage source (Fig. 5B).

With respect to method steps of claim 17:

- a) arranging a plurality of fixed, spaced and insulated contacts (59-61) along at least one side of said arcuate path (Fig. 5D), moving an electrically conductive member (55-57) along said path by an amount representative of the relative movement of the object (Fig. 5D), thereby causing said movable member to make electrical contact with one of said contacts (Fig. 5B), storing respectively a corresponding plurality of different preset distance measurement data in a corresponding plurality of data-storing locations in a memory respectively operatively connected to said plurality of contacts (column 9, lines 43-53), the distance measurement data stored in said plurality of data-storing locations being respectively uniquely associated with one of

said plurality of contacts then contacted by said movable member to be applied to an output device (63).

Response to Arguments

5. Applicant's arguments filed on November 13, 2006 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art cited on PTO-892 and not mentioned above disclose a measuring device:

Glantz et al. (US 7,096,591 B2)

Terringo (US 5,067,249)

Middleton et al. (US 4,918,608)

Butler et al. (US 4,912,662)

Bianco (US 4,855,942)

Marquis et al. (US 4,845,646)

Grumet (US 4,601,053)

Rodengen (US 4,468,860)

Art Unit: 2859

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania C. Courson whose telephone number is (571) 272-2239.

The examiner can normally be reached on Monday, Thursday, Friday from 9AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez, can be reached on (571) 272-2245.

The fax number for this Organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Diego Gutierrez
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Technology Center 2800

TCC
March 16, 2007